IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

WP(C).No. 27025 of 2006(P)

PETITIONER:

PREMA S. NAIR,
SELECTION GRADE ASSISTANT, UNIVERSITY OF KERALA,
THIRUVANANTHAPURAM.

BY ADV. SRI.D.KISHORE

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, HIGHER EDUCATION (B)
DEPARTMENT, THIRUVANANTHAPURAM.

2. THE SECRETARY,
FINANCE (RULES) DEPARTMENT,GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

3. UNIVERSITY OF KERALA,
REPRESENTED BY ITS VICE CHANCELLOR,
UNIVERSITY BUILDINGS, THIRUVANANTHAPURAM.

4. THE REGISTRAR,
UNIVERSITY OF KERALA, UNIVERSITY BUILDINGS,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.RAJAGOPALAN NAIR, SC, KERALA UTY.
GOVERNMENT PLEADER SRI.T.T.MUHAMMED.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/02/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.27025/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE PROCEEDINGS NO.AD.C.I./IV.C2/92, TVPM DT. 30.1.1992.

EXT.P2: TRUE COPY OF THE PROCEEDINGS NO.AD.AI.3.2712(B)/93 DATED 17.8.93 OF 4TH RESPONDENT.

EXT.P3; TRUE COPY OF THE PROCEEDINGS NO.AD CI/IV.C2/94 DT.24.3.1994 OF 4TH RESPONDENT.

EXT.P4: TRUE COPY OF THE CIRCULAR NO.72/2005/FIN DATED 30.12.05 OF 2ND RESPONDENT.

EXT.P5: TRUE COPY OF THE RELEVANT EXTRACTS OF THE FINAL GRADATIONLIST DT.1.12.1992.

EXT.P6: TRUE COPY OF THE PROCEEDINGS A1-3-1356/95 DTD. 30.10.95 OF 4TH RESPONDENT.

EXT.P7: TRUE COPY OF TH RELEVANT EXTRACT OF THE PROVISIONAL GRADATION LIST OF SR.ASST. ISSUED AS PER CIRCULAR NO.Ad.A1.3.302/05 DATED 7.10.2005.

EXT.P8: TRUE COPY OF THE OBJECTION SUBMITTED BY THE PETITIONER DTD. 30.10.2005 TO EXT.P7.

EXT.P9: TRUE COPY OF THE PROCEEDINGS NO.Ad.A.S.1088/06 DT.22.2.06 OF 4TH RESPONDENT.

EXT.P10: TRUE COPY OF THE PROCEEDINGS NO.715/B3/06/H.EDN.DTD.28.2.2006 OF 1ST RESPONDENT.

EXT.P11: TRUE COPY OF THE PROCEEDINGS NO.715/B3/06/H.EDN DTD. 12.5.2006 OF 1ST RESPONDENT.

//TRUE COPY//

P.A. TO JUDGE

K.M.JOSEPH, J.

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WP.(C) No.27025 OF 2006

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Dated this the 6th day of February, 2007

JUDGMENT

Complaint of the petitioner is that the University on a mistaken understanding of the legal provisions cancelled the promotion of the petitioner believing that Leave Without Allowance will cause loss of seniority and promotion. It is stated to be on the basis of the Appendix XII B. According to the petitioner it does not apply.

2. In the counter affidavit filed by the University a contention is taken that petitioner has remedy under Section 73(3) of the Kerala University Act. I should agree with the contention of the University that petitioner should exhaust his alternate remedy before approaching this court.

The writ petition is disposed of as follows:

If the petitioner files an application before the Tribunal under Section 73(3) of the Kerala University Act within two weeks from the date of receipt of a copy of this judgment, the Tribunal will consider the same and take a decision thereon in accordance with law after

hearing the parties within a period of three months from the date of filing of the application. Till such time as a decision is taken, the interim order will continue. I leave open the contentions of the petitioner.

(K.M. JOSEPH, JUDGE)

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K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.